

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Tricome, Domenic A.

(b) County of Residence of First Listed Plaintiff Montgomery, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pro Se: 649 S. Henderson Rd, A508B, King of Prussia, PA 19406;
610-265-6864

DEFENDANTS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input checked="" type="checkbox"/> PTF	<input checked="" type="checkbox"/> DEF	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> PTF	<input checked="" type="checkbox"/> DEF
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Producer Liability	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	LABOR	<input type="checkbox"/> 490 Cable Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 388 Property Damage	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 510 Selective Service
<input checked="" type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 390 Other Personal Product Liability	<input type="checkbox"/> 720 Labor Mgmt. Relations	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor Mgmt Reporting & Disclosure Act	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 750 Other Labor Litigation	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	HABEAS CORPUS:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/ Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/ Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	FEDERAL TAX SUITS	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
TITLE 15 CHAPTER 1 § 15

VI. CAUSE OF ACTION

Brief description of cause:
Fraud, Negligence, Violation of Antitrust Law

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMANDS** **Unspecified + Punitive** **CHECK YES only if demanded in complaint:** **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/30/2009

SIGNATURE OF ATTORNEY OF RECORD

Domenic Tricome Jr.

05/30/2009

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

CDJ

Case 2:09-cv-02492-CDJ Document 1-1 Filed 05/09/09 Page 2 of 11

09-cv-2492

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Domenic Tricome, 649 S. Henderson Rd., A508B, King of Prussia, PA 19406-3568

Address of Defendant: eBay, Inc., 2145 Hamilton Ave., San Jose, CA 95125

Place of Accident, Incident or Transaction: 649 S. Henderson Rd., A508B, King of Prussia, PA 19406
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY: N/A

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

MAY 3 0 2009

DATE: _____

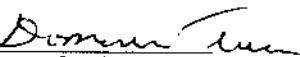
Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/30/2009

Domenic Tricome 

Attorney I.D.# Pro Se

CIV. 609 (6/08)

Attorney-at-Law Pro Se

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

DOMENIC TRICOME : CIVIL ACTION
v. :
EBAY, INC. ET AL :
: NO. 09-cv-2492

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (x)

(f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>5/30/2009</u>	<u>Domenic Tricome</u>	<u>Plaintiff</u>
<u>Date</u>	<u>Attorney at law</u>	<u>Attorney for</u>
<u>Telephone</u>	<u>FAX Number</u>	<u>E-Mail Address</u>
610-265-6864	610-265-8538	dtricome@comcast.net

Filed 5/30/2009

Domenic Tricome
649 S. Henderson Rd., A508B
King of Prussia, PA 19406-3568
610-265-6864; fax: 610-265-8538

Plaintiff

FILED

May 30 2009

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

DOMENIC TRICOME,

Plaintiff,

v.

EBAY, INC., SEAN CHAFFIN, WILLIAM COBB, SHERAKA KELLEY, MICHELLE MARSHALL, JAY MONAHAN, RICHARD NESSARY, MICHAEL RICHTER, MEG WHITMAN,

Defendants.

No.

COMPLAINT FOR FRAUD, NEGLIGENCE, CONSPIRACY, VIOLATION OF ANTITRUST LAW AND POSSIBLE OTHER VIOLATIONS OF STATE AND FEDERAL LAW

Jury Trial Demanded

Please note that the Plaintiff is Pro Se for now, and apologizes for the mistakes that inevitably will occur. As noted in the following, due to illness which is relevant to this suit, the Plaintiff has not had the opportunity to hire a law firm, but intends to.

Domenic Tricome

v.

EBay et al.

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Plaintiff alleges as follows:

I. SUMMARY

By the Defendant's admission, the Plaintiff is an expert concerning selling on the Defendant's web site.

Defendant has committed fraud by knowingly and willingly not enforcing and not following their rules in their online published User Agreement.

The Defendant knowingly and willingly wrongly uses their third party status including under the Communications Decency Act to not get involved in clear-cut cases, which they are legally required to do so, for fear of losing business, even though the opposite would occur. And, they also do the opposite by getting involved when they think it is in their best interest to do so, which breaks the law.

The Defendant claims they are not an auction, but they clearly are. Their whole web site contains the word "auction" on just about every page. Their site has hundreds of thousands of pages if not millions. They advertise that they are an auction.

The Plaintiff is very disabled. The Defendant knew it. The Defendant knew they were inflicting physical harm causing further, permanent physical injury, basically cutting the Plaintiff's already lack of health in half.

With the disability comes a social isolation that was offset a lot by the work, which brought the two parties together. The Defendant chose to permanently terminate the Plaintiff

from membership for no valid reason. It will be shown that the Defendant has done the same to many others.

The outcome of all, which the Defendant was warned about, forced the Plaintiff to sell their business for far less than its value, causing emotional and financial harm.

II. JURISDICTION AND VENUE

1. This court has jurisdiction over this complaint because it arises under the laws of the United States. Venue is appropriate in this court because the Plaintiff resides in this district, and a substantial amount of the acts and omissions giving rise to this lawsuit occurred in this district. Further, given the physical condition of the Plaintiff, it may be physically impossible and a financial burden for the venue to be other than this district. And, again, the Defendant knew about the original condition, and caused the existing condition. Still further, by any measurement, the Defendant is rich, but always fights for a change to their district not for fairness, but to win.

III. THE PARTIES

2. Plaintiff, Domenic Tricome, is a resident of King of Prussia, PA.

3. Defendant, eBay, is a California corporation with its principal place of business in San Jose, CA.

4. Given the privacy laws and laws governing corporations, the Defendant, a corporation, should distribute this filing to the following executives, lawyers and managers:

5. Defendant, Sean Chaffin, was a lawyer at eBay.
6. Defendant, William Cobb, was the President of eBay North America.
7. Defendant, Sheraka Kelley, was a Manager of eBay.
8. Defendant, Michelle Marshall, was a Manager of eBay.
9. Defendant, Jay Monahan, was the Vice President and Deputy General Counsel of eBay.

10. Defendant, Richard Nessary, was a lawyer at eBay.
11. Defendant, Michael Richter, was a lawyer at eBay.
12. Defendant, Meg Whitman, was the President and CEO and is a Director of eBay.
13. The actions alleged herein to have been undertaken by the defendants were

undertaken by each defendant individually, were actions that each defendant caused to occur, were actions that each defendant authorized, controlled, directed, or had the ability to authorize, control or direct, and/or were actions in which each defendant assisted, participated or otherwise encouraged, and are actions for which each defendant is liable. Each defendant aided and abetted the actions of the defendants, in that each defendant had knowledge of those actions, provided assistance and benefited from those actions, in whole or in part. Each of the defendants was the agent of each of the remaining defendants, and in doing the things alleged, was acting within the course and scope of such agency and with the permission and consent of other defendants.

**FIRST CAUSE OF ACTION
FRAUD**

14. Plaintiff re-alleges I. Summary and paragraph thirteen in this Complaint and incorporates them here as if set forth in full.

15. Defendants have violated their own User Agreement. Plaintiff, a Seller on eBay, the Defendant, was repeatedly told by the Defendants' managers, lawyers and an executive that the only recourse to libel was to sue the Buyer, the libeler. When the Plaintiff did sue, the Defendant terminated the Plaintiff's business account and unrelated personal account. Before all of it, the Plaintiff literally begged the Defendant many times for about six months to not force the Plaintiff to sue. The Plaintiff even gave the Defendant viable options. The libel continues to be posted by the Defendant, because the Plaintiff has to sue the Buyers. Plaintiff's health all but prevents him to act. This almost late filing pro se reinforces this fact. The Defendant has removed the Plaintiff's reply to the libel, leaving just the libel. The libel was damaging to the Plaintiff's business, and is damaging to the Plaintiff emotionally.

16. The Plaintiff has received about 100 death threats from Buyers. The Defendant knew it, and was given clear-cut evidence about it. They did absolutely nothing.

17. The internet has many sites dedicated to similar fraud, negligence, etc. One such site pretty much sums up the situation: ebaysucks.com.

18. The Plaintiff has needed access to their records. Both their lawyers and Plaintiff asked for it several times almost two years ago. The Plaintiff has never gotten an answer from the Defendant's Legal Department and Customer Service.

19. One of the Defendant's lawyers told the Plaintiff that the Defendant does not retaliate against a member, but the Defendant did by suspending the Plaintiff for no reason.

20. The Defendant owns a company that is also a monopoly, PayPal. PayPal commits fraud, etc like the Defendant. PayPal once held about \$11,000 of the Plaintiff's money for no valid reason. PayPal eventually terminated the Plaintiff for no valid reason. After about a year, PayPal apologized and begged the Plaintiff to return, because the Defendant's stock has plummeted.

21. Given the preceding damages, the Plaintiff's sales dropped dramatically, which the Defendant was told throughout, and the Plaintiff could never recover. The Plaintiff was forced to sell the company at a much reduced value. If the business had continued to thrive like before the damages, the sale of the business would have never been a consideration.

22. No person on this planet can have a team of lawyers with them all day long to read all the legalese that one is involved with. For example, on many receipts, there is legalese. The Defendant actually thinks that every member should read every line of their legalese with a team of lawyers. That is how they justify the unscrupulous act of including language in their User Agreement that they can do anything they want.

23. The Plaintiff has reason to believe that many suits against the Defendant have been settled with the caveat that the parties not discuss anything to do with the proceedings and settlement.

SECOND CAUSE OF ACTION NEGLIGENCE

24. Plaintiff is severely disabled, and is very limited in what he can do. Plaintiff is socially cut-off due to the disability. The work Plaintiff performed via the Defendant fulfilled a financial and emotional need that healthy people usually take for granted. The Defendant knew it. The Defendant negligently used some if not many inferior personnel. The Defendant placed unrealistic demands on its personnel. The Defendant mistreated its personnel. Some employees have discussed problems about the Defendant with the Plaintiff. Many employees have posted similar problems on the internet. The outcome led to rules not being enforced; rules being enforced improperly; emotional mistreatment of the Plaintiff; etc. For example, the Plaintiff sent the Defendant Buyers' emails that had harassed, extorted, abused, etc the Plaintiff, which is against the Defendant's rules, and the Defendant did nothing. To be clear, the Defendant was aware of the daily extortion threats of negative feedback, a system to rate both Buyers and Sellers. Another example was there were times that the Plaintiff told the Defendant about other companies, competitors, that were breaking the Defendant's rules, and the Defendant did nothing. Yet another example is the Defendant suspended the Plaintiff several times for the same issue that was not a valid issue. All told, the Plaintiff lost about two months in sales. The Defendant used faulty software. All of which caused financial, emotional and physical harm to the Plaintiff, the latter of which led to a permanent, physical injury.

THIRD CAUSE OF ACTION CONSPIRACY

25. When the Defendant told the Plaintiff the reason for the termination was the law suits, the Defendant surprisingly added a made up story of petty personality flaws of the Plaintiff, a "slut defense."

**FOURTH CAUSE OF ACTION
VIOLATION OF ANTITRUST LAW**

26. There is nothing in the USA that compares to the Defendant's business. It is an uncontrolled monopoly. Given this, it has a much heightened responsibility to treat members fairly, and to do the right thing in every way. It will be shown it does not.

III. PRAYER FOR RELIEF

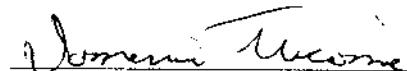
WHEREFORE, plaintiff respectfully prays that this Court:

1. Order a compensatory award of damages; and
2. Order an award of fees and costs, and
3. Order an award of punitive damages to be determined at trial; and any other or further relief that the Court deems appropriate.

V. JURY DEMAND

Plaintiff hereby demands a trial by jury of all issue in this case.

DATED this 30th day of May, 2009 before 6:48 PM ET.


Domenic Tricome
649 S. Henderson Rd., A508B
King of Prussia, PA 19406-3568
610-265-6864; fax: 610-265-8538
dtricome@comcast.net

Domenic Tricome

v.

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